

REMARKS/ARGUMENTS

Applicants respectfully request further examination and reconsideration in view of the instant response. The claims remaining in the present application are Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35. Claims 1-4, 6, 8-11, 15-17, 20, 25-27 and 29-35 are rejected. Claims 1, 6, 10 and 29 are amended herein. Claims 8, 15, 25 and 34 are cancelled. No new matter has been added. Support for the claim amendments can be found at least at page 4, lines 20-26.

CLAIM REJECTIONS – 35 U.S.C. § 112

Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35

Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35 are rejected under 35 U.S.C. 112, second paragraph “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention” (page 3). In particular, “[t]he Examiner is unsure how it is that Applicant can transmit both the encrypted first key and the encrypted data packet ‘in a first transmission’ and yet transmit the encrypted first key ‘separate from’ the encrypted data packet” (page 3).

One of ordinary skill in the art would understand that the first transmission comprises “the encrypted first key” without the data packet (e.g., separate from the data packet) and the second transmission comprises “the data packet” (which was not transmitted during the first transmission). Therefore, independent Claims 1, 6, 10 and

29 overcome the rejection under 35 U.S.C. 112, second paragraph. Accordingly, Claims 2-4, 9, 11, 16, 17, 20, 26, 27, 28-33 and 35 that depend from Claims 1, 6, 10 and 29, respectively, also overcome the rejection under 35 U.S.C. 112, second paragraph.

CLAIM REJECTIONS – 35 U.S.C. §102(e)

Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35

The instant Office Action states that Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35 are rejected under 35 U.S.C. §102(e) as being anticipated by Spies et al. (US 6,055,314), hereinafter referenced as “Spies.” Applicants respectfully submit that the embodiments of the present invention as recited in Claims 1-4, 6, 9-11, 16-17, 20, 26, 27, 29-33 and 35 are patentable over Spies for at least the following rationale.

Claim 1 recites an embodiment of the present invention (emphasis added):

A method of transmitting secured data, the method comprising:

utilizing a first key to encrypt a payload by a mobile device;

adding a header to the encrypted payload to form a data packet **by said mobile device**, wherein said payload comprises **GPS location of said mobile device**;

utilizing a second key to encrypt the first key by said mobile device;

utilizing a third key to encrypt the data packet by said mobile device;

transmitting the encrypted first key separate from the encrypted data packet to a wireline device in a first transmission from a wireless device by said mobile device, wherein the wireline device decrypts the encrypted first key;

transmitting only the encrypted data packet without said first key over a wireless link to a gateway in a second transmission from the wireless device by said mobile device, wherein the gateway decrypts the encrypted data packet to recreate the encrypted payload and the header, and forwards the encrypted payload and the header to the wireline device over an open network; and

utilizing the wireline device and the first key from the first transmission to decrypt the encrypted payload.

Independent Claims 6, 10 and 29 recite similar embodiments. Claims 2-4, 9, 11, 16, 17, 20, 26, 27, 28-33 and 35 that depend from Claims 1, 6, 10 and 29, respectively, also include these embodiments.

MPEP §2131 provides:

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... “The identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). The elements must be arranged as required by the claim.

Applicants respectfully submit that Spies does not disclose “adding a header to the encrypted payload to form a data packet by said mobile device, wherein said payload comprises GPS location of said mobile device,” as claimed (emphasis added).

First, Applicants understand Spies to disclose a provider computing unit 34 (fig. 1) and a merchant computing unit 44 (fig. 2) that are **not** mobile devices. In particular, Spies discloses “[e]xamples of a video content provider 22 includes a cable operator, a television station, and a movie studio,” (col. 4, lines 65-57). Applicants do not understand a cable operator, a television station and/or a movie studio to be “a mobile device,” as claimed.

Second, Applicants understand Spies to disclose a video payload 74 (fig. 5). Applicants understand Spies to disclose “a video payload 74...[t]he payload 74 contains

a segment of video data” (col. 9, lines 53-57). Applicants do not understand a video payload and/or video data to disclose “GPS location of said mobile device,” as claimed.

Applicants respectfully submit that Spies does not satisfy a *prima facie* case of anticipation under 35 U.S.C. §102(e). Therefore, Applicants respectfully submit that Spies does not anticipate the claimed embodiments of the present invention as recited in independent Claims 1, 6, 10 and 29, that these claims overcome the rejection under 35 U.S.C. § 102(e), and that these claims are thus in a condition for allowance.

Applicants respectfully submit that Spies also does not anticipate the additional claimed features of the present invention as recited in Claims 2-4, 9, 11, 16, 17, 20, 26, 27, 28-33 and 35 that depend from Claims 1, 6, 10 and 29, respectively. Therefore, Applicants respectfully submit that Claims 2-4, 9, 11, 16, 17, 20, 26, 27, 28-33 and 35 also overcome the rejection under 35 U.S.C. § 102(e), and are in a condition for allowance as being dependent on an allowable base claim.

CONCLUSION

In light of the above remarks, Applicants respectfully request reconsideration of the rejected claims.

Based on the arguments presented above, Applicants respectfully assert that Claims 1-4, 6, 9-11, 16, 17, 20, 26, 27, 29-33 and 35 overcome the rejections of record, and therefore Applicants respectfully solicits allowance of these claims.

The Examiner is invited to contact Applicants' undersigned representative if the Examiner believes such action would expedite resolution of the present Application.

Respectfully submitted,

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